

PETER C. WOLFF, JR. #2332
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District of Hawaii

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Attorney for Defendant
JOHN SARDINHA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,) Cr. No. 02-00272 DAE
)
Plaintiff,) STIPULATION AND ORDER
) REDUCING SENTENCE
vs.) PURSUANT TO NEW
) SENTENCING GUIDELINE
JOHN SARDINHA,) AMENDMENT
)
Defendant.)
_____)

**STIPULATION AND ORDER REDUCING SENTENCE
PURSUANT TO NEW SENTENCING GUIDELINE AMENDMENT**

IT IS HEREBY STIPULATED AND AGREED by and between the parties herein that, pursuant to 18 U.S.C. § 3582(c), the defendant's sentence of 135 months incarceration imposed on March 8, 2004, is reduced to 120 months

incarceration. All other provisions of the sentence imposed on March 8, 2004, remain unaltered.

The defendant, JOHN SARDINHA, is currently serving a term of imprisonment for an offense involving cocaine base (crack). Mr. Sardinha was contacted, by phone and in writing, by defense counsel regarding the possible application of the new sentencing guideline amendment to his case. Mr. Sardinha has informed counsel to proceed in this matter by way of a stipulation and does not wish to be brought back to Hawaii for purposes of a resentencing hearing.

Mr. Sardinha was sentenced by this Court on March 8, 2004, to a term of 135 months imprisonment, the low-end of the applicable guideline range. His guideline range was 135-168 months, based on a total offense level of 33 and a criminal history category of I.

The sentencing guideline range Mr. Sardinha was sentenced under was subsequently lowered by the United States Sentencing Commission on November 1, 2007. See U.S.S.G. Appendix C, Amdt. 706. The amendment was made retroactive. See Amendment 706.

The new amendment changes Mr. Sardinha's total offense level to 31. This results in a new guideline range of 108-135 months. However, Mr. Sardinha is subject to a 10 year (120 months) mandatory-minimum term. Although

Mr. Sardinha is in criminal history category 1, he was ineligible for the safety-valve reduction, and hence a sentence below the statutory mandatory-minimum, due to the application of a two-level gun enhancement pursuant to U.S.S.G. §2D1.1(b)(1).

The parties agree that Mr. Sardinha is eligible for a reduction of his sentence by retroactive application of Amendment 706 pursuant to § 3582(c) and U.S.S.G. policy statement § 1B1.10. The parties agree that Mr. Sardinha's new sentence of incarceration should be 120 months.

Wherefore, the parties ask that the Court resentence Mr. Sardinha to a term of incarceration of 120 months.

IT IS SO STIPULATED:

DATED: Honolulu, Hawaii, May 29, 2008.

/s/ Alexander Silvert
ALEXANDER SILVERT
Attorney for Defendant
JOHN SARDINHA

/s/ Chris Thomas
Chris Thomas
Attorney for Plaintiff
UNITED STATES OF AMERICA

IT IS APPROVED AND SO ORDERED:

DATED: Honolulu, Hawaii, June 3, 2008.



David Alan Ezra
United States District Judge

UNITED STATES v. JOHN SARDINHA

Cr. No. Cr. No. 02-00272 DAE

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PURSUANT TO NEW SENTENCING GUIDELINE AMENDMENT